

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE \$16,000,000 USD ASSET
PROPERTY/PROCEEDS OF
SALE/CARGO LOCATED AT 1325
BROADWAY AVE., OAKLAND, CA
94612

Case No. [16-mc-80128-MEJ](#)

**ORDER DENYING APPLICATION FOR
CERTIFICATION FOR
INTERLOCUTORY APPEAL**

Re: Dkt. No. 9

On June 20, 2016, Jeremy Lafitte—an alleged “Real Party In Interest/Lien Claimant”—filed the following documents: (1) “Notice and Petition of Enforcement of Maritime Lien, Adjudication and Declaration of Condemnment [sic] Captured Prize Property and Asset Forfeiture [sic]” (Dkt. No. 1); (2) “Petition in the Nature of a Precipe to the Clerk for Instant Immediate [sic] Judicial Review and Hearing Ex Parte” (Dkt. No. 2); (3) “Petition in the Nature of a Motion for Issuance of Order and Warrant for Arrest” (Dkt. No. 3); (4) “Petition in the Nature of a Motion for Issuance of a Prejudgment Interest Award” (Dkt. No. 4); and “Order for Issuance of Warrant for Arrest” (Dkt. No. 4-1) (collectively “Petitions”).¹ Through these Petitions, it appears Mr. Lafitte alleges, among other things, that he was in a dispute with employees at a Citibank branch over his attempts to open an account without a social security number and that while he “was a visitor . . . On board the vessel CITI BANK 1325 Broadway Oakland ca 94612 . . . Lien Claimant died from the Default of Obligations by Lien Debtors[.]” Dkt. No. 1 at 2, 6.²

On July 15, 2016, the Court denied Mr. Lafitte’s Petitions with leave to amend. July 15 Order, Dkt. No. 8. The Court found the Petitions largely incomprehensible and as such, could not determine whether (1) Mr. Lafitte has a basis for his purported maritime lien or (2) the Court has subject-matter jurisdiction over his claims. *Id.* Nonetheless, the Court granted Mr. Lafitte until

¹ On July 1, 2016, Mr. Lafitte consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). Dkt. No. 6.

² The original filings do not contain page numbers so the Court references the ECF page numbers assigned to the documents.

1 August 16, 2016 to file an amended petition or complaint and encouraged him to seek assistance
2 from the Court Legal Help Center. *Id.*

3 Since then, Mr. Lafitte filed a Notice of Emergency Interlocutory Appeal from the July 15
4 Order. Notice, Dkt. No. 9. He has also filed an Application with this Court seemingly seeking its
5 certification of an Interlocutory Appeal pursuant to 28 U.S.C. § 1292(a)(3). *See* Dkt. No. 9.

6 Mr. Lafitte's Application is improper in a variety of respects. First, his Notice of
7 Emergency Interlocutory Appeal should moot any request to this Court to certify his interlocutory
8 appeal. Second, under 28 U.S.C. § 1292(a)(3), there is no need for the district court to certify an
9 appeal; district courts certify appeals from interlocutory orders under 28 U.S.C. § 1292(b).³ Third,
10 28 U.S.C. § 1292(a)(3) only applies to interlocutory orders that "determin[e] the rights and
11 liabilities of the parties" in "admiralty cases"; however, Mr. Lafitte has not established this is
12 properly an admiralty case, as the Court found in the July 15 Order.

13 Consequently, the Court **DENIES** Mr. Lafitte's Application as the Court has no grounds to
14 certify an appeal. Additionally, in light of the Notice of Emergency Interlocutory Appeal, the
15 Court **STAYS** all proceedings and deadlines in this case pending the Ninth Circuit's resolution of
16 the Appeal. The Clerk of Court is directed not to accept further filings by Mr. Lafitte in this
17 matter unless those filings are ordered by the Court.

18 **IT IS SO ORDERED.**

19 Dated: August 3, 2016

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21 _____
22 MARIA-ELENA JAMES
23 United States Magistrate Judge

24 ³ Section 1292(b) is "to be used only in exceptional situations[.]" *In re Cement Antitrust Litig.*,
25 673 F.2d 1020, 1026 (9th Cir. 1982). "It was not intended merely to provide review of difficult
26 rulings in hard cases." *U.S. Rubber Co. v. Wright*, 359 F.2d 784, 785 (9th Cir. 1966). To certify a
27 case for appeal under § 1292(b), a court must find: "(1) that there [is] a controlling question of
28 law, (2) that there [are] substantial grounds for a difference of opinion, and (3) that an immediate
appeal may materially advance the ultimate termination of the litigation." *In re Cement*, 673 F.2d
at 1026. "A party's strong disagreement with the Court's ruling is not sufficient for there to be a
'substantial ground for difference'; the proponent of an appeal must make some greater
showing." *Kowalski v. Anova Food, LLC*, 958 F. Supp. 2d 1147, 1154 (D. Haw. 2013). Mr.
Lafitte has identified no grounds under which the Court can certify his appeal under § 1292(b).